## Remarks

Claims 1-3, 5, 6, 8-16 and 18 are pending in the present application. Claim 1 is amended to recite that the rheology control agent comprises a coprocessed mixture of microcrystalline cellulose ("MCC") and carboxymethylcellulose. Claim 1 is also amended to recite that the rheology control agent is present in an amount of from 0.2% to 3%, and such amendment is supported, for example, at page 6, line 31. Claim 1 is further amended to recite that the composition is sprayable in a non-aerosol spray device, and such amendment is supported at page 13, line 33. Finally, claims 1, 5 and 9 are amended herein to overcome an antecedent issue raised by the Examiner (see below). Entry of the foregoing amendments and reconsideration are respectfully requested.

At page 2 of the Office Action, the Examiner objected to claims 5 and 18 as being in improper multiple dependent form. Applicants have amended the claims herein to overcome this issue. Withdrawal is requested.

At page 3 of the Office Action, the Examiner rejected claim 1 as being indefinite for a lack of antecedent basis associated with "said microcrystalline cellulose." Applicants have amended claim 1 per the Examiner's suggestion, as well as similarly amended claims 5 and 9. Withdrawal of the rejection is requested.

At pages 3-16 of the Office Action, the Examiner issued the following rejections: (i) claims 1-3, 5, 6, 8-16 and 18 under 35 USC § 103 as being unpatentable over Jose; (ii) claims 1-3, 5, 6, 8-16 and 18 under 35 USC § 103 as being unpatentable over Pflucker; and (iii) claims 1-3, 5, 6, 8-16 and 18 under 35 USC § 103 as being unpatentable over Tanner in view of the '706 Patent.

The Examiner's position is set forth in the Office Action and will not be repeated in detail here for purposes of brevity.

Applicants respectfully traverse the foregoing rejections and respectfully request reconsideration thereof.

As amended, the present claims are directed to a sprayable composition comprising a

cosmetic agent or mixture of cosmetic agents, an emulsifier, a rheology control agent and 55-80 wt% of water, wherein the cosmetic agent is selected from sunscreen agents, self-tanning agents, depilatories, exfoliating agents and mixtures thereof and the composition has a viscosity at high shear of 120 Pa-s or less. The rheology control agent of the present claims, as amended, comprises coprocessed microcrystalline cellulose and carboxymethylcellulose and is present in the composition in an amount of from 0.2% to 3% by weight.

None of the prior art, alone or in any combination, discloses or suggests the presently claimed sprayable composition comprising the presently claimed coprocessed rheology control agent or the unexpected results obtained by the use of such a rheology control agent.

Jose is directed to long lasting color cosmetic compositions containing an organic oil and a specific silicone mixture. The composition may be a lipstick, blush, eye shadow, foundation, concealer or the like (col. 1, lines 57-59). Jose discloses microcrystalline cellulose as particulate material (col. 7), but does not provide any disclosure or suggestion of a rheology control agent in a sprayable composition comprising microcrystalline cellulose coprocessed with carboxymethylcellulose.

Moreover, there is no disclosure or suggestion in Jose that the composition disclosed therein would be useful as a sprayable composition. The Examiner's position that one skilled in the art would have found suggestion in Jose to use the teachings in Jose in a sprayable composition with a reasonable expectation of success "in order to offer convenience" (see page 12 of the Office Action) is an unsupported assertion of the level of skill in the field.

At page 11 of the Office Action, the Examiner argues that any mixture of components in Jose would result in being "coprocessed," and the Examiner further argues that such is a process limitation and not entitled to any patentable weight in a product claim.

Applicants explain that the "coprocessed" MCC/carboxymethylcellulose of the present invention is an intimate mixture of the two components in distinction to a dry mixture. See pages 5 and 6 of the present application explaining, for example, that the carboxymethylcellulose is spray dried with the MCC to produce the coprocessed product, as well as the patent references

cited therein further explaining such "coprocessed" products.[1]

Jose does not disclose or suggest the use of such a coprocessed product or its use in a sprayable composition.

The Examiner also argues that "sprayable" is a "future-intended use" of the composition having no structural limitation. As a result, such was not given any consideration by the Examiner.

It is respectfully submitted that "sprayable" is entitled to full consideration as such clearly gives the composition certain physical requirements as opposed to, for example, a composition that is not sprayable. Nonetheless, claim 1 is amended herein to additionally recite this important feature in the main portion of the claim. It is believed that the Examiner should properly give consideration to this limitation. Once considered, Applicants again submit that Jose in no way discloses or suggests the sprayable composition of the present claims comprising the coprocessed MCC/carboxymethylcellulose of the present invention.

Pflucker is directed to a sunscreen composition that addresses the needs of formulations having high SPF by encapsulating organic sunscreens. Pflucker discloses microcrystalline cellulose as a carrier, but does not provide any disclosure or suggestion of a rheology control agent comprising microcrystalline cellulose coprocessed with carboxymethylcellulose.

Applicants refer the Examiner to the comments above regarding the coprocessed composition of the present invention and the limitation in the present claims requiring the composition to be "sprayable." Nothing in Pflucker discloses or suggests the use of the presently claimed coprocessed rheology control agent in a sprayable composition as in the present invention.

Tanner is directed to sunscreen compositions comprising an emulsion having at least one oil phase containing a UVA-absorbing dibenzoylmethane sunscreen active, at least one aqueous phase comprising a formaldehyde donor preservative and an emulsifier (col. 2). Tanner does not disclose the use of microcrystalline cellulose, so the Examiner turns to the '706 Patent for this

[1] See also the attached Declaration Under 37 CFR § 1.132 (and comments below) demonstrating

disclosure.

However, nothing in Tanner or the'706 Patent, alone or in combination, discloses or suggests a rheology control agent in a sprayable composition comprising microcrystalline cellulose that is coprocessed with carboxymethylcellulose. Applicants refer the Examiner to the comments above regarding the coprocessed composition of the present invention and the limitation in the present claims requiring the composition to be "sprayable."

In view of the foregoing, it is respectfully submitted that the Examiner has not established a proper *prima facie* case of obviousness in view of: (i) Jose, (ii) Pflucker, or iii) Tanner in view of the '706 Patent. Accordingly, withdrawal of the foregoing rejections is respectfully requested.

Moreover, submitted herewith is a Declaration Under 37 CFR 1.132 ("Declaration") providing testing at MCC/carboxymethylcellulose use levels of 0.2%, 1% and 3% in order to show the unexpected differences between the composition of the present invention containing coprocessed MCC/carboxymethylcellulose as compared to a dry mixture of MCC and carboxymethylcellulose. As stated by the Declarant:

> As can be seen from the attached photographs, in each comparison test, the sprays containing the coprocessed MCC/CMC of the present invention showed unexpectedly better results than the comparative samples using a dry blend of MCC and CMC. That is, in each test, the spray characteristics containing the coprocessed products were finer, less coalesced and did not drip as compared to the comparative samples using the MCC and CMC in a dry mixture. The more coalesced and dripping sprays of the comparative samples performed poorly throughout the tested range. These findings show an important and unexpectedly better stability and functionality in a non-aerosol spray throughout the tested range for the composition containing the coprocessed MCC/CMC as compared to the dry blend of MCC/CMC.

See the Declaration at Paragraph II. G and the photographs attached to the Declaration.

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the functional difference between coprocessed and dry blends of MCC/carboxymethylcellulose.

In view of the foregoing, it is respectfully submitted that the present invention provides unexpectedly better stability and functionality in a non-aerosol spray device as compared to compositions containing a dry blend of MCC and CMC. Nothing in the prior art cited by the Examiner, alone or in any combination, suggests such results. As a result, even assuming the Examiner has established a proper *prima facie* case of obviousness, it is respectfully submitted that the Declaration submitted herewith effectively rebuts such.

Applicants respectfully submit that the presently claimed invention is unobvious and patentable over the cited art. Accordingly, withdrawal of the rejection is respectfully requested.

Early, favorable action is earnestly solicited.

The Examiner is invited to phone Applicants' attorney if it is believed that a telephonic or personal interview would expedite prosecution of the application.

Respectfully submitted,

/Paul A. Fair, Reg. No. 35,866/
Paul A. Fair, Esq.
Reg. No. 35,866
Phone: 215-299-6723
Fax: 215-299-6984

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Attachment: Declaration Under 37 CFR § 1.132

Please send all correspondence to:

FMC Corporation
Patent Administrator
1735 Market Street
Philadelphia, Pennsylvania 19103